

# In the Supreme Court of the State of Idaho

---

IN RE: AMENDMENT OF RULE 83	)	ORDER AMENDING RULE 83
OF THE IDAHO RULES OF CIVIL	)	OF THE IDAHO RULES OF
PROCEDURE	)	CIVIL PROCEDURE

The Court having reviewed a recommendation to amend Rule 83 of the Idaho Rules of Civil Procedure, and the Court having reviewed the proposed amendments and having approved them;

NOW, THEREFORE IT IS HEREBY ORDERED that the Idaho Rules of Civil Procedure as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

## **Rule 83 (a) Appeals From Decisions of Magistrates.**

An appeal from any ~~order~~ final judgment, as defined in Rule 54(a) of the Idaho Rules of Civil Procedure, granting or denying a petition for termination of parental rights or granting or denying a petition for adoption must be taken to the Supreme Court in accord with Idaho Appellate Rule 11.1. Otherwise, absent an order allowing a permissive appeal pursuant to Idaho Appellate Rule 12.1, an appeal must first be taken to the district judges division of the district court from any of the following judgments or ; orders ~~or decisions~~ rendered by a magistrate:

(1) A final judgment in a civil action or a special proceeding commenced, or assigned to, the magistrate's division of the district court.

(2) Any of the ~~orders~~, judgments or orders ~~decrees~~ in an action in the magistrate's division which would be appealable from the district court to the Supreme Court under Rule 11 of the Idaho Appellate Rules.

(3) Domestic Violence Protection Orders issued pursuant to I.C. § 39-6306.

(4) Final orders entered upon current forms approved by the Idaho Supreme Court.

(3 5 ) Interlocutory orders by permissive appeal accepted by the district court which shall be processed in the same manner as provided by Rule 12 of the Idaho Appellate Rules.

(4 6 ) Any order, judgment or decree by a magistrate in a special proceeding ~~in~~ for which an appeal is provided by statute.

Provided, however, that whenever the Supreme Court, upon petition of the administrative district judge of a judicial district, assigns an attorney magistrate to hear any action which may otherwise be tried only by a district judge, any appeal taken from a judgment of such magistrate acting under such order shall be made to the Supreme Court of Idaho, unless otherwise provided by the original order of assignment.

...

**(i) Stay During Appeal--Powers of Magistrate.**

(1) *Stay of Proceedings.* The filing and perfection of an appeal to the district court shall automatically stay the proceeding and execution of any judgment, or order or decision appealed from by the appellant for a period of fourteen (14) days. Any further stay shall be only by order of the presiding magistrate or the district court.

IT IS FURTHER ORDERED, that this order shall be effective on the 1st day of September, 2010.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rule by lining through them is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through shall not be considered a part of the permanent Filing Fee Schedule.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 12 day of August, 2010.

By Order of the Supreme Court



Daniel T. Eismann,  
Chief Justice

ATTEST:

Stephen Kenyon  
Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.

WITNESS my hand and the Seal of this Court 8/12/10

STEPHEN W. KENYON

Clerk

By:

Kimberly Grane

Deputy